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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **ANNE CORCORAN WILKES**
1219 W. Scott
Fresno, California 93711

14 **Registered Nurse License No. RN 257910**
15 **Nurse Practitioner Certificate No. NP 6871**
16 **Nurse Midwife Certificate No. NMW 1002**
17 **Nurse Midwife Furnishing Certificate No. NMF**
18 **1002**

Respondent.

Case No. *2011-541*
A C C U S A T I O N

19 Louise R. Bailey, M.Ed., RN ("Complainant") alleges:

20 **PARTIES**

21 1. Complainant brings this Accusation solely in her official capacity as the Executive
22 Officer of the Board of Registered Nursing ("Board"), Department of Consumer Affairs.

23 **Registered Nurse License**

24 2. On or about July 31, 1975, the Board issued Registered Nurse License Number RN
25 257910 to Anne Corcoran Wilkes ("Respondent"). The license was in full force and effect at all
26 times relevant to the charges brought herein and will expire on March 31, 2011, unless renewed.

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1 **Nurse Practitioner Certificate**

2 3. On or about January 11, 1994, the Board issued Nurse Practitioner Certificate
3 Number NP 6871 to Respondent. The certificate was in full force and effect at all times relevant
4 to the charges brought herein and will expire on March 31, 2011, unless renewed.

5 **Nurse Midwife Certificate**

6 4. On or about January 13, 1994, the Board issued Nurse Midwife Certificate Number
7 NMW 1002 to Respondent. The certificate was in full force and effect at all times relevant to the
8 charges brought herein and will expire on March 31, 2011, unless renewed.

9 **Nurse Midwife Furnishing Certificate**

10 5. On or about October 4, 1994, the Board issued Nurse Midwife Furnishing Certificate
11 Number MWF 1002 to Respondent. The certificate was in full force and effect at all times
12 relevant to the charges brought herein and will expire on March 31, 2011, unless renewed.

13 **STATUTORY AND REGULATORY PROVISIONS**

14 6. Business and Professions Code (Code) section 2746.5 provides is pertinent part:

15 “(a) The certificate to practice nurse-midwifery authorizes the holder, under the
16 supervision of a licensed physician, and surgeon, to attend cases of normal childbirth....

17 (b) As used in this chapter, the practice of mid-wifery constitutes the furthering or
18 undertaking by any certified person, under the supervision of a licensed physician and surgeon
19 who has current practice or training in obstetrics, to assist a woman in childbirth so long as the
20 progress meets criteria accepted as normal. All complications shall be referred to a physician
21 immediately. The practice of nurse-midwifery does not include the assisting of childbirth by any
22 artificial, forcible, or mechanical means, nor the performance of any version.

23 (d) A certified nurse-midwife is not authorized to practice medicine and surgery by the
24 provisions of this chapter.

25 7. Business and Professions Code (“Code”) section 2750 provides, in pertinent part, that
26 the Board may discipline any licensee, including a licensee holding a temporary or an inactive
27 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing
28 Practice Act.

1 initial evaluation of the patient included findings of pre-tibial and pedal edema and elevated blood
2 pressure. Respondent tested the patient for pre-eclampsia with a negative result. The patient
3 reported a recent onset of a cough with a history of asthma. Respondent's examination revealed
4 that the patient's membranes were still intact and occasional uterine contractions. The patient did
5 not look well in Respondent's clinical view and seemed distressed from an upper respiratory
6 infection. Respondent admitted the patient to the hospital to deliver the baby. Respondent
7 ruptured the patient's membranes and induced labor.

8 13. During the course of labor, the patient had increased coughing and was provided with
9 an Albuterol inhaler¹. The inhaler provided the patient temporary relief. The patient's respiratory
10 condition continued to deteriorate. A Respiratory Therapist provided inhalation treatment
11 resulting in short term relief. The patient's coughing returned and after several hours the patient
12 received another respiratory therapy inhalation treatment with only short term relief. As labor
13 progressed, the patient's cough became worse. A chest x-ray was ordered and completed but not
14 read. The patient was given Phenergan with Codeine. The fetal tracing showed tachycardia and
15 variable decelerations. An amnio-infusion was ordered for treatment of the decelerations. The
16 amnio-infusion temporarily relieved the decelerations. The patient was given oxygen by mask
17 because of low oxygen saturation levels.

18 14. The patient's labor progressed to complete and pushing. While pushing, the patient's
19 mental status changed and she was unable to push effectively. The patient's cough increased and
20 her respiratory distress worsened. The pulse oximeter had been removed to facilitate pushing but
21 when reapplied the patient's oxygen saturation level was 58, and the fetus had bradycardia.
22 Respondent's supervising physician was contacted to proceed to the labor and delivery room
23 "stat". The patient was unable to breathe and went into full cardiac arrest. Respondent delivered
24 the baby by a vacuum-assisted method. Respondent's supervising physician appeared in the
25 labor and delivery room after the baby was delivered.

26
27 ¹The patient had a history of asthma and had not taken her medication for approximately
28 two weeks.

1 The baby was resuscitated, intubated, and subsequently transferred to Children's Hospital of
2 California. The patient was intubated and transferred to ICU (intensive care unit). The patient
3 was diagnosed with postpartum cardiomyopathy. The baby was diagnosed with hypoxic
4 encephalopathy with major neurological and physiological impairment.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Incompetence)**

7 15. Paragraphs 12 through 14 are incorporated herein as though set forth at length.
8 Respondent is subject to discipline under Code section 2761(a)(1), on the grounds of
9 unprofessional conduct, in that on or about February 25, 2006, while on duty as a midwife at
10 Community Regional Medical Center, located in Fresno, California, Respondent was incompetent
11 by failing to exercise the degree of learning, skill, care, and experience ordinarily possessed and
12 exercised by a competent nurse, as more particularly set forth below:

13 a. Respondent failed to notify the supervising physician in a timely manner when the
14 patient did not respond to treatment and developed complications.

15 b. Respondent failed to document the patient's medical complications.

16 c. Respondent continued management of the patient after the patient developed
17 complications requiring physician management.

18 d. Respondent performed a vacuum-assisted delivery of the patient's baby.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Unprofessional Conduct-Gross Negligence)**

21 16. Paragraphs 12 through 14 are incorporated herein as though set forth at length.
22 Respondent is subject to discipline under Code section 2761(a), on the grounds of unprofessional
23 conduct, in that on or about February 25, 2006, while on duty as a midwife at Community
24 Regional Medical Center, located in Fresno, California, Respondent was grossly negligent, as
25 more particularly set forth above in paragraphs 12 through 15.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct-Scope of Practice)**

3 17. Respondent is subject to discipline under Code section 2761(d) on grounds of
4 unprofessional conduct in that on or about February 25, 2006 while on duty as a midwife at
5 Community Regional Medical Center, located in Fresno, California, Respondent committed
6 unprofessional conduct as more particularly set forth above in paragraphs 12 through 15. In
7 addition to those acts, Respondent failed to adhere to the policies and standardized procedures of
8 the supervising physician.

9 **PRAYER**

10 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Board of Registered Nursing issue a decision:

12 1.1. Revoking or suspending Registered Nurse License Number RN 257910, issued to
13 Anne Corcoran Wilkes

14 1.2. Revoking or suspending Nurse Practitioner Certificate Number NP 6871, issued to
15 Anne Corcoran Wilkes

16 1.3. Revoking or suspending Nurse Midwife Certificate Number NMW 1002, issued to
17 Anne Corcoran Wilkes

18 1.4. Revoking or suspending Nurse Midwife Furnishing Certificate Number MWF 1002,
19 issued to Anne Corcoran Wilkes

20 1.5. Ordering Anne Corcoran Wilkes to pay the Board of Registered Nursing the
21 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
22 Professions Code section 125.3; and,

23 1.6. Taking such other and further action as deemed necessary and proper.

24
25 DATED:

12/15/10

Louise R. Bailey
LOUISE R. BAILEY, M.E.D., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant